

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION**

**JOSEF TOTH and UNIVERSAL ATM GROUP, LLC,**

Plaintiffs,

v.

Case No. 13-13851-DPH  
Hon. Denise Page Hood

**MULTIPOINT, INC.,**

Defendant

/

**DEFENDANT'S ANSWER TO COMPLAINT AND AFFIRMATIVE DEFENSES**

Multipoint, Inc. ("Defendant") states:

1. The Defendant neither admits nor denies the allegations contained in paragraph 1 of the Complaint due to a lack of information sufficient to form a belief and leaves the Plaintiffs to their proofs.
2. The Defendant neither admits nor denies the allegations contained in paragraph 2 of the Complaint due to a lack of information sufficient to form a belief and leaves the Plaintiffs to their proofs.
3. The Defendant admits that it is an Illinois corporation. The Defendant neither admits nor denies the remaining allegations contained in paragraph 3 of the Complaint due to a lack of information sufficient to form a belief and leaves the Plaintiffs to their proofs.
4. The Defendant neither admits nor denies the allegations contained in paragraph 4 of the Complaint due to a lack of information sufficient to form a belief and leaves the Plaintiffs to their proofs.

**Background Facts**

5. The Defendant incorporates all of the above paragraphs as if set forth in full herein.

6. The Defendant neither admits nor denies the allegations contained in paragraph 6 of the Complaint due to a lack of information sufficient to form a belief and leaves the Plaintiffs to their proofs.

7. The Defendant denies the allegations contained in paragraph 7 of the Complaint because they are not true.

8. The Defendant neither admits nor denies the allegations contained in paragraph 8 of the Complaint due to a lack of information sufficient to form a belief and leaves the Plaintiffs to their proofs.

#### **COUNT I: FRAUDULENT CONVEYANCE**

9. The Defendant incorporates all of the above paragraphs as if set forth in full herein.

10. The Defendant denies the allegations contained in paragraph 10 of the Complaint because they are not true.

11. The Defendant denies the allegations contained in paragraph 11 of the Complaint because they are not true.

12. The Defendant denies the allegations contained in paragraph 12 of the Complaint because they are not true.

13. The Defendant denies the allegations contained in paragraph 13 of the Complaint because they are not true.

14. The Defendant neither admits nor denies the allegations contained in paragraph 14 of the Complaint due to a lack of information sufficient to form a belief and leaves the Plaintiffs to their proofs.

**WHEREFORE**, the Defendant respectfully requests that this Honorable Court dismiss the Complaint and award the Defendant its costs, interest, and attorney fees.

#### **COUNT II: SUCCESSOR LIABILITY**

15. The Defendant incorporates all of the above paragraphs as if set forth in full herein.

16. The Defendant neither admits nor denies the allegations contained in paragraph 16 of the Complaint due to a lack of information sufficient to form a belief and leaves the Plaintiffs to their proofs.

17. The Defendant neither admits nor denies the allegations contained in paragraph 17 of the Complaint due to a lack of information sufficient to form a belief and leaves the Plaintiffs to their proofs.

18. The Defendant neither admits nor denies the allegations contained in paragraph 18 of the Complaint due to a lack of information sufficient to form a belief and leaves the Plaintiffs to their proofs.

19. The Defendant neither admits nor denies the allegations contained in paragraph 19 of the Complaint due to a lack of information sufficient to form a belief and leaves the Plaintiffs to their proofs.

20. The Defendant neither admits nor denies the allegations contained in paragraph 20 of the Complaint due to a lack of information sufficient to form a belief and leaves the Plaintiffs to their proofs.

**WHEREFORE**, the Defendant respectfully requests that this Honorable Court dismiss the Complaint and award the Defendant its costs, interest, and attorney fees.

**COUNT III: UNJUST ENRICHMENT**

21. The Defendant incorporates all the above paragraphs as if set forth in full herein.  
22. The Defendant denies the allegations contained in paragraph 22 of the Complaint because they are not true.

23. The Defendant neither admits nor denies the allegations contained in paragraph 23 of the Complaint due to a lack of information sufficient to form a belief and leaves the Plaintiffs to their proofs.

24. The Defendant neither admits nor denies the allegations contained in paragraph 24 of the Complaint due to a lack of information sufficient to form a belief and leaves the Plaintiffs to their proofs.

25. The Defendant neither admits nor denies the allegations contained in paragraph 25 of the Complaint due to a lack of information sufficient to form a belief and leaves the Plaintiffs to their proofs

**WHEREFORE**, the Defendant respectfully requests that this Honorable Court dismiss the Complaint and award the Defendant its costs, interest, and attorney fees.

**AFFIRMATIVE DEFENSES**

Defendant states the following Affirmative Defenses to Plaintiffs' Complaint, without prejudice to its right to argue that the burdens of production and/or persuasion on some or all of these matters rest with Plaintiffs:

1. Plaintiffs have failed to state a claim upon which relief may be granted. Defendant reserves the right to file a motion for summary disposition on this ground, and all other grounds set forth herein.

2. Plaintiffs' claims may be barred in whole or in part because they have been settled and released.

3. Plaintiffs' claims are barred by failure of conditions precedent.

4. The Defendant paid reasonably equivalent value for the assets of Multipoint Processing Corporation.

5. Plaintiffs' claims are barred by the applicable statute of limitations.

6. Defendant reserves the right to add additional defenses, as discovery is continuing, and the failure to list such additional defenses at this time should not constitute a waiver.

**WHEREFORE**, Defendant respectfully requests that this Honorable Court dismiss the Plaintiffs' Complaint and award Defendant its costs, interest and attorney fees necessitated by having to respond to it.

Respectfully submitted,

KENNETH R. BEAMS, PLLC

Dated: September 10, 2013

/s/ Kenneth R. Beams  
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